

L. JOYCE HAMPERS  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

September 14, 1982

You are engaged in the business of refinishing wood furniture. You inquire whether the charges you impose are subject to the sales tax.

You state that your services comprise cleaning and stripping of old finish material from wood furniture, and the application of new finish material to the furniture. You do not build or rebuild furniture.

General Laws Chapter 64H, Section 2 imposes an excise on sales at retail of tangible personal property in Massachusetts. Chapter 64H, Section 1(14) provides that, in determining the sales price on which the tax is based, no deduction shall be taken on account of the cost of materials used or labor or service costs; it also provides that any amount paid for any services that are a part of a sale must be included in the sales price.

On the other hand, Section 1(13)(c) of Chapter 64H excludes from the definition of "sale at retail"

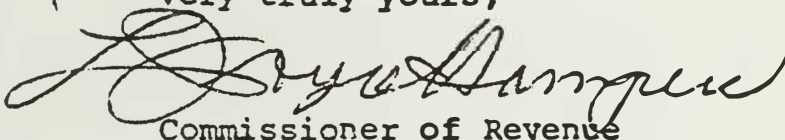
"personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

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Sales and Use Tax Regulation 64H.03 explains the application of the Massachusetts sales and use taxes to service enterprises. It provides in Subsection (2) that a service transaction is not subject to the sales tax where the real object of the transaction is the service itself, and either (1) no transfer of tangible personal property takes place, or (2) an inconsequential transfer of tangible personal property takes place, and the service enterprise does not separately state the purchase price of the property on the bill to the customer.

Based on the foregoing, it is ruled that your charges for refinishing wood furniture are not subject to the sales tax. You are the consumer of the materials and supplies you use in your refinishing business, and must pay the sales tax when purchasing such items.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Raymond A. Langone", written in a cursive style.

Commissioner of Revenue

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